

**Before the  
Education Audit Appeals Panel  
State of California**

In the Matter of:

Santa Paula Union High School District,

Appellant.

EAAP Case No. 04-24

OAH No. L 2005010080

**Decision**

The attached Stipulation and Proposed Decision of the parties is hereby adopted by the Education Audit Appeals Panel as its Decision in the above-entitled matter.

This Decision shall become effective on June 24, 2005.

IT IS SO ORDERED June 24, 2005.



Thomas E. Dithridge, Chairperson  
for Education Audit Appeals Panel

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Respondent.

**(Ed. Code § 41344.1, subd. (b))**

1 campus fell 12,860 instructional minutes below the quantity of instructional minutes required in  
2 order to qualify to receive longer instructional day funding pursuant to Education Code section  
3 46201. A true and correct copy of Audit Finding 2003-1 is incorporated by reference and attached  
4 hereto as Exhibit "A."

5 C. The Parties acknowledge that the instructional minute shortage at issue herein is so  
6 large that the District cannot reasonably avail itself of the waiver provisions of Education Code  
7 section 46206. The Parties further acknowledge that, pursuant to Education Code section 46206,  
8 any such waiver would be dependent on the District maintaining an instructional minute overage in  
9 the same amount as the shortage for twice the period of the shortage (i.e. an overage of 12,860  
10 instructional minutes for two school years), thus, necessitating a cumulative overage of 25,720  
11 instructional minutes.

12 D. The District has maintained sufficient instructional minutes to provide an overage of  
13 744 instructional minutes for the 2003-2004 school year and an overage of 3,259 instructional  
14 minutes for the 2004-2005 school year.

15 E. The District timely filed an audit appeal of Audit Finding 2003-1 pursuant to  
16 Education Code section 41344.

17 F. This Agreement is subject to approval of the Education Audit Appeals Panel,  
18 pursuant to Education Code section 41344.1, subdivision (b).

19 NOW, THEREFORE, in consideration of the mutual promises contained herein and for  
20 good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the  
21 Parties agree as follows:

## 22 AGREEMENT

23 1.0 Utilizing the number of instructional minutes specified in Education Code section  
24 46201, subdivision (a)(3)(D) (presently 64,800 minutes) as a baseline, the District shall maintain  
25 sufficient instructional minutes at its Santa Paula High School campus to provide a cumulative  
26 annual instructional minute overage at that schoolsite in the amount of 25,720 instructional minutes  
27 for the period commencing July 1, 2003, and concluding at the end of the first school year in which  
28 such overage has been achieved or June 30, 2011, whichever is earlier. It is expressly acknowledged

that the District shall receive credit for the aforementioned instructional minute overages in the 2003-2004 and 2004-2005 school years of 744 minutes and 3,259 minutes, respectively, leaving a balance of 21,717 instructional minutes.

1.1 This Agreement does not require the District to make up specific quantities of instructional minutes in any given fiscal year. The parties anticipate, however, that the 21,717 instructional minutes will be made up according to the following proposed schedule:

Fiscal Year Ending (FYE)	ADDITIONAL INSTRUCTIONAL MINUTES
FYE June 30, 2006	4,650
FYE June 30, 2007	4,650
FYE June 30, 2008	4,650
FYE June 30, 2009	4,650
FYE June 30, 2010	3,117
FYE June 30, 2011	Any outstanding additional instructional minutes to meet the total of 21,717.

1.2 The district shall require the independent auditing firm to review the progress of additional instructional minutes consistent with this paragraph. The report of the annual audit of the District for each year in which the additional instructional minutes are to be maintained pursuant to this Agreement shall specifically report, with respect to the Santa Paula High School site, each of the following: (1) the total number of additional instructional minutes already made up in prior years; (2) the number of additional instructional minutes made up in the current year; and (3) the balance of additional instructional minutes that remain to be made up in future years. The District's failure to specifically report such information shall not be a breach of this Agreement, but shall constitute grounds for the Controller to refuse to certify the District's annual audit report.

1.3 Provided that the District fulfills the requirements of Paragraph 1.0 by no later than June 30, 2011, the District shall incur no fiscal penalty or other loss of funding resulting from an instructional minute shortage in the 2002-2003 school year. However, if the District fails to make up the total number of additional instructional minutes required under this Agreement by June 30,

1 2011, the Controller shall withhold from the District's next succeeding principal apportionment, in  
2 lieu of any other penalty or other loss of funding, an amount equal to \$65.73 multiplied by the  
3 number of minutes remaining to meet the total of 21,717 additional instructional minutes.

4 1.4 No District funds shall be withheld in connection with Audit Finding 2003-1,  
5 pending completion of the District's obligations under Paragraph 1.0.

6 1.5 This Agreement shall fully resolve any and all claims, demands, audit  
7 findings, obligations and/or causes of action, now or hereafter arising, relating to the District's  
8 instructional minutes during the 2002-2003 school year.

9 1.6 Accordingly, Finance and the Controller expressly waive any right or claim,  
10 or right to assert thereafter any claim, demand, audit finding, obligation and/or cause of action  
11 relating to instructional minutes for the 2002-2003 school year.

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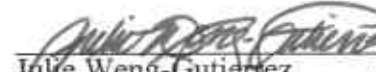
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1                   1.7     The District agrees to withdraw, with prejudice, its appeal of Audit Finding  
2 2003-1 in EAAP Case No. 04-24, OAH Case No. L2005010080.

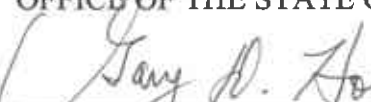
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4 DEPARTMENT OF FINANCE

5 Dated: 5-18-05

  
Julie Weng-Gutierrez  
Deputy Attorney General  
Attorney for Department of Finance

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8 OFFICE OF THE STATE CONTROLLER

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10 Dated: 5/19/05

  
Gary D. Hori  
Attorney for Steve Westley  
State Controller

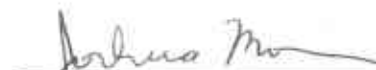
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13 SANTA PAULA UNION HIGH SCHOOL DISTRICT

14  
15 Dated: 5-25-05

  
David Gomez, Superintendent

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18 APPROVED AS TO FORM:

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20 Dated: 5/23/05

  
Joshua E. Morrison  
Atkinson, Andelson, Loya, Ruud & Romo  
Attorney for Santa Paula Union High School District

## EXHIBIT A

2003-1 Finding (40000) - Instructional Minutes

In order to meet the state compliance requirements of Education Code 46201 and receive longer instructional day funding the district was required to offer a minimum of 64,800 instructional minutes short in grades 9 thru 12 during the year. My review of the 2002-03 instructional minutes was unable to conclude that the district has met compliance standards to be eligible for the longer year incentive funding which the district received during the fiscal year. The high school site was 12,860 minutes short in grades 9 thru 12.

Impact

The District could be liable for \$1,609,623 dollars in funding that would have to be repaid if it is unable to obtain a waiver from the state and make up all of the minutes in two subsequent years. This shortage resulted in a penalty of the 2002-03 revenue limit funding calculated as follows:

Second Period ADA claimed	1,463.93
times the Base Revenue Limit of	\$5,540.36
times the % of minutes short (12,860 / 64,800) =	19.845679%

Recommendation

I recommend that the District request a waiver in regards to the 2002-03 instructional minutes. I also recommend that the District amend the current bell schedules to meet the requirement in the future and review the possibilities of making up the short minutes and minimizing the effects of the penalty.

District Response